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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/830,064	04/23/2004	Tetsuro Motoyama	252122US-2 CONT	8744
22850	7590	05/13/2009		
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314				
EXAMINER				
DAILEY, THOMAS J				
ART UNIT		PAPER NUMBER		
2452				
NOTIFICATION DATE		DELIVERY MODE		
05/13/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com

oblonpat@oblon.com

jgardner@oblon.com

Office Action Summary

Application No.

10/830,064

Applicant(s)

MOTOYAMA ET AL.

Examiner

Thomas J. Dailey

Art Unit

2452

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 February 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 31-48 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 31-48 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SG/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claim 48 was added by the amendment filed 2/23/2009.
2. Claims 31-48 are pending.

Response to Arguments

3. Applicant's arguments with respect to prior art rejections of the claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 31-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cheng et al (US Pat. 6,151,643), hereafter "Cheng," in view of Gase et al (US Pat. 5,580,177), hereafter "Gase."
6. As to claim 31, Cheng discloses a method of updating a first version of a device driver installed on a computer of a user the method comprising:

transmitting to an office device by the first version of the device driver installed on the computer, a request for version information of the newest version of the device driver that is stored in the memory of the office device (column 7, lines 46-62, client application gathers version information from software (software includes drivers), on client computer (the computer), and requests information regarding the latest versions that are available from the service provider (office device); while the request to the service provider is not directly from the device drivers, the drivers are still essentially making the request via the client application, i.e. the drivers provide version information to the application and that information is relayed to the service provider),

receiving, from the office device to which the computer is communicatively coupled, version information of the newest version of the device driver that is stored in the memory of the office device (column 3, lines 25-39, user computer receives from service provider computer system (office device) information regarding available updates);

determining, based on the received version information, whether the first version of the device driver installed on the computer is different from the newest version of the device driver stored in said memory (column 3, lines 32-39);

if the determining step determines that the first version is different from the newest version, inquiring whether the user wants to update the device driver on the computer with the newest version of the device driver (column 3, lines 38-42,

user identifies updates to be made; column 5, lines 28-33 also indicates a method of user approval before the software update); and

if the inquiring step determines that the user wants to update the device driver, obtaining the newest version of the device driver from the office device (column 3, lines 41-45).

But, Cheng does not explicitly disclose the first version of the device driver being programmed to transmit the request to the office device and wherein both the first version and the newest version of the device driver are configured to control operations of the office device. Rather, in Cheng the transmission is via the client application program.

However, Gase discloses transmitting to an office device by the first version of the device driver installed on a computer a request for version information of a newest version of the device driver that is stored in a memory of the office device (column 6, lines 8-12, client processor (computer) provides driver information to file server (office device); office device compares driver information to ensure client processor has most up to date printer driver), the first version of the device driver being programmed to transmit the request to the office device (column 6, lines 3-17, client processor operation are controlled by previously installed printer utility and printer driver (i.e. the first version of the device driver)).

Therefore it would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of Cheng and Gase in order to minimize programming overhead by eliminating the client application is CHeng and allowing the operations to be controlled directly by the drivers..

7. As to claims 36, 41 and 46, they are rejected by the same rationale set forth in claim 31's rejection.

8. As to claims 32, 37, and 42, Cheng discloses:

displaying, on a display associated with the computer, a message regarding whether the user wants to update the device driver (column 5, lines 24-32, display device is inherent as the user must read the email in regards to an available update, and the approval of the update); and

receiving a response from the user, said response indicating whether the user wants to update the device driver with the newest version (column 5, lines 30-32).

9. As to claims 33, 38, and 43, Cheng discloses:

establishing a connection to the office device (column 3, lines 41-45);

receiving, from the office device, an installation file for the newest version of the device driver (column 3, lines 41-45 and column 10, lines 33-54, the URL is the installation file for the newest version of the device driver); and

storing said installation file in a temporary storage area associated with the computer (column 10, lines 33-54, client computer retrieve URL and must store it in order to access).

10. As to claims 34, 39, and 44, Cheng discloses executing the stored installation file to install the newest version of the device driver on the computer (column 10, lines 33-54, installation of software update via execution of URL).

11. As to claims 35, 40, and 45, Cheng discloses generating commands and associated data for controlling said office device, prior to said receiving step (column 3, lines 25-29).

12. As to claim 47, Cheng discloses the office device is a printer and the device driver is configured to control operations of the printer (column 2, lines 31-41).

13. As to claim 48, Cheng discloses receiving, by the office device, the newest version of the device driver from a service center (column 7, lines 46-53)

Conclusion

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

15. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.
16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Dailey whose telephone number is 571-270-1246. The examiner can normally be reached on Monday thru Friday; 9:00am - 5:00pm.
17. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on 571-272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. J. D./
Examiner, Art Unit 2452

/Dohm Chankong/
Primary Examiner, Art Unit 2452